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**HOUSE BILL 428**

**46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003**

**INTRODUCED BY**

Larry A. Larranaga

**AN ACT**

**RELATING TO THE PROCUREMENT CODE; INCREASING QUALIFYING  
THRESHOLDS FOR CERTAIN DESIGN AND BUILD PROJECT DELIVERY  
SYSTEMS FROM THOSE COSTING LESS THAN TWO HUNDRED THOUSAND  
DOLLARS (\$200,000) TO FIVE HUNDRED THOUSAND DOLLARS (\$500,000).**

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:**

**Section 1. Section 13-1-119.1 NMSA 1978 (being Laws 1997,  
Chapter 171, Section 5, as amended) is amended to read:**

**"13-1-119.1. PUBLIC WORKS PROJECT DELIVERY SYSTEM - DESIGN  
AND BUILD PROJECTS AUTHORIZED. - -**

**A. Except for road and highway construction or  
reconstruction projects, a design and build project delivery  
system may be authorized when the state purchasing agent or a  
central purchasing office makes a determination in writing that  
it is appropriate and in the best interest of the state or**

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1 local public body to use the system on a specific project with  
2 a maximum allowable construction cost of more than ten million  
3 dollars (\$10,000,000). The determination shall be issued only  
4 after the state purchasing or central purchasing office has  
5 taken into consideration the following criteria, which shall be  
6 used as the minimum basis in determining when to use the design  
7 and build process:

8 (1) the extent to which the project  
9 requirements have been or can be adequately defined;

10 (2) time constraints for delivery of the  
11 project;

12 (3) the capability and experience of potential  
13 teams with the design and build process;

14 (4) the suitability of the project for use of  
15 the design and build process as concerns time, schedule, costs  
16 and quality; and

17 (5) the capability of the using agency to  
18 manage the project, including experienced personnel or outside  
19 consultants, and to oversee the project with persons who are  
20 familiar with the design and build process.

21 B. When a determination has been made by the state  
22 purchasing agent or a central purchasing office that it is  
23 appropriate to use a design and build project delivery system,  
24 the design and build team shall include, as needed, a New  
25 Mexico registered engineer or architect and a contractor

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1 properly licensed in New Mexico for the type of work required.

2 C. Except as provided in Subsections F and G of  
3 this section, for each proposed state or local public works  
4 design and build project, a two-phase procedure for awarding  
5 design and build contracts shall be adopted and shall include  
6 at a minimum the following:

7 (1) during phase one, and prior to  
8 solicitation, documents shall be prepared for a request for  
9 qualifications by a registered engineer or architect, either  
10 in-house or selected in accordance with Sections 13-1-120  
11 through 13-1-124 NMSA 1978, and shall include minimum  
12 qualifications, a scope of work statement and schedule,  
13 documents defining the project requirements, the composition of  
14 the selection committee and a description of the phase-two  
15 requirements and subsequent management needed to bring the  
16 project to completion. Design and build qualifications of  
17 responding firms shall be evaluated and a maximum of five firms  
18 shall be short-listed in accordance with technical and  
19 qualifications-based criteria; and

20 (2) during phase two, the short-listed firms  
21 shall be invited to submit detailed specific technical concepts  
22 or solutions, costs and scheduling. Unsuccessful firms may be  
23 paid a stipend to cover proposal expenses. After evaluation of  
24 these submissions, selection shall be made and the contract  
25 awarded to the highest ranked firm

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1           D. Except as provided in Subsections F and G of  
2 this section, to ensure fair, uniform, clear and effective  
3 procedures that will strive for the delivery of a quality  
4 project on time and within budget, the secretary, in  
5 conjunction with the appropriate and affected professional  
6 associations and contractors, shall promulgate [~~regulations~~]  
7 rules applicable to all using agencies, which shall be followed  
8 by all using agencies when procuring a design and build project  
9 delivery system.

10           E. A state agency shall make the decision on a  
11 design and build project delivery system for a state public  
12 works project, and a local public body shall make that decision  
13 for a local public works project. A state agency shall not  
14 make the decision on a design and build project delivery system  
15 for a local public works project.

16           F. The requirements of Subsections C and D of this  
17 section and the minimum construction cost requirement of  
18 Subsection A of this section do not apply to a design and build  
19 project delivery system and the services procured for the  
20 project if:

21                   (1) the maximum allowable construction cost of  
22 the project is [~~two hundred thousand dollars (\$200,000)~~] five  
23 hundred thousand dollars (\$500,000) or less; and

24                   (2) the only requirement for architects,  
25 engineers, landscape architects or surveyors is limited to

1 either site improvements or adaption for a pre-engineered  
2 building or system

3 G. The procurement of a design and build project  
4 delivery system qualifying for exemptions pursuant to  
5 Subsection F of this section, including the services of any  
6 architect, engineer, landscape architect, construction manager  
7 or surveyor needed for the project, shall be accomplished by  
8 competitive sealed bids pursuant to Sections 13-1-102 through  
9 13-1-110 NMSA 1978. "

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